

PTO/SB/25 (08-03)

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REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)

53951-025

In re Application of: Jeffrey H. Burbank, et. al.

Application No.: 09/865,905

Filed: 5/24/2001

For: Fluid processing systems and methods using extracorporeal fluid flow panels oriented within a cartridge

The owner, NxStage Medical, or 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number 10/041,949 filed on 1/7/2002, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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2. ☒ The undersigned is an attorney or agent of record.



Signature

9/17/2004

Date

Mark Catan

Typed or printed name

202-778-1118

Telephone Number

- ☐ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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PTO/SB/26 (09-03)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING REJECTION OVER A PRIOR PATENT	Docket Number (Optional) 53951-025
<p>In re Application of: Jeffrey H. Burbank, et. al.</p> <p>Application No.: 09/865,905</p> <p>Filed: 5/24/2001</p> <p>For: Fluid processing systems and methods using extracorporeal fluid flow panels oriented within a cartridge</p> <p>The owner, <u>NxStage Medical</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. <u>6,554,789</u>. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.</p> <p>In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer. In the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.</p> <p>Check either box 1 or 2 below, if appropriate.</p> <p>1. <input type="checkbox"/> For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.</p> <p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p> <p>2. <input checked="" type="checkbox"/> The undersigned is an attorney or agent of record.</p> <div style="text-align: right; margin-top: 10px;">  Signature _____ Date <u>9/17/2004</u> <u>Mark Catan</u> Typed or printed name <u>202-778-1118</u> Telephone Number </div> <p><input checked="" type="checkbox"/> Terminal disclaimer fee under 37 CFR 1.20(d) included.</p> <p style="text-align: center;">WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <p style="text-align: center;">*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner). Form PTO/SB/96 may be used for making this certification. See MPEP § 324.</p>	

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